



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING




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INTERIM SUPERINTENDENT  
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**MEMORANDUM**

**TO:** State Board of Education

**FROM:** Jeremy M. Hughes, Ph.D., Chairman 

**DATE:** June 27, 2005

**SUBJECT:** Presentation on Proposed State Board of Education Policy on Schools of Choice and Title I Transfer Option

Sections 105 and 105c of the State School Aid Act provide an opportunity for local school districts to operate a "schools of choice" program. Section 105 allows local school districts to enroll pupils residing in other local school districts in the same intermediate school district without a release from the resident district. Section 105c provides the same option for pupils residing in school districts in contiguous intermediate school districts. Some school districts have also established cooperative agreements that allow them to enroll each other's resident pupils. The school districts involved in these various types of schools of choice options are not required to provide transportation for participating pupils.

Title I of the No Child Left Behind (NCLB) Act requires local school districts in which there are Title I schools that are identified for improvement to offer pupils enrolled in these schools the option to transfer to other schools in the district that are not identified for improvement. If all of the other schools at the appropriate grade levels in the district are also identified for improvement, the district must, to the extent practicable, establish a cooperative agreement with other school districts in the area to which pupils may transfer. The resident district is required to provide transportation for pupils choosing the transfer option and may use Title I funds for this purpose.

The differences between the state schools of choice provisions and the Title I transfer option have created a need for clarification and for state policy regarding the relationship between these options. Staff has drafted the attached proposed policy statement (Attachment A) and related questions and answers (Attachment B) to provide this clarification and to establish the following two policy requirements:

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State Board of Education  
June 27, 2005

Local school districts that operate Section 105 or 105c programs, or that have entered into cooperative agreements to enroll nonresident pupils, may not refuse to enter into cooperative agreements to enroll nonresident pupils from Title I schools that are identified for improvement. The terms of these cooperative agreements are to be governed by the terms of the Section 105 or 105c programs or preexisting cooperative agreements.

The order of preference for enrolling nonresident pupils will be: (1) pupils who were enrolled in the previous school year; (2) siblings and other household members of pupils who are enrolled; (3) pupils from Title I schools in need of improvement who are the lowest-achieving from low-income families; (4) all other pupils from Title I schools in need of improvement; (5) all other pupils.

All other requirements included in the proposed policy are requirements of Section 105 or 105c of the State School Aid Act or Title I of NCLB. It is anticipated that the questions and answers in Attachment B may be expanded in the future as additional questions arise.

The proposed policy will be submitted to the State Board of Education for adoption at the August 9, 2005 meeting.

**STATE BOARD OF EDUCATION**

**Proposed Policy on Schools of Choice and Title I Transfer Option**

The following policy is proposed to the State Board of Education to clarify the relationship between schools of choice programs under Sections 105 and 105c of the State School Aid Act, cooperative agreements among school districts to enroll each other's resident pupils, and the transfer option required by Title I of the No Child Left Behind (NCLB) Act. The policy incorporates the provisions of state and federal law, requires local school districts that operate Section 105 or 105c programs or have preexisting cooperative agreements to enter into Title I cooperative agreements if requested, and combines the state and federal requirements to establish the order of preference for enrolling nonresident pupils.

**Requirements Governing the Transfer Option for Pupils in Title I Schools that are Identified for Improvement**

1. If there are other schools at the appropriate grade levels in the district that are not identified for improvement, the district must make the transfer option to the other schools available and must provide transportation.
  - If there are more pupils wanting to transfer than there is room in the other schools, NCLB requires that priority be given to the lowest achieving children from low-income families.
  - The pupil has the right to remain in the school to which he/she transferred until he/she has completed the highest grade in that school. However, the district's obligation to provide transportation ends at the conclusion of the school year that the school from which the pupil transferred is no longer identified for improvement.
2. If all of the schools at the appropriate grade levels in the district are identified for improvement, or if there are no other schools at the appropriate grade levels, the district must, to the extent practicable, enter into cooperative agreements with other districts to which pupils may transfer.
  - The district may limit its request to enter into cooperative agreements to those other districts that are geographically contiguous to the district.
  - The district must identify those pupils who are the lowest achieving children from low-income families in the event that districts accepting the transferred pupils have limited space.
  - If the two districts already have a cooperative agreement in place to educate each other's resident pupils, preference must be given to the lowest achieving children from low-income families to the extent that the cooperative agreement would allow. For example, if the cooperative agreement is specific to limited curricular areas (e.g., a shared math and science program) transferring pupils pursuant to NCLB may not be applicable.
  - The "sending" district must provide transportation for the transferring pupils.
  - The receiving district would receive the foundation allowance amount of the resident district.
  - The pupil has the right to remain in the nonresident district until he/she has completed the highest grade in the school to which he/she transferred.

However, the "sending" district's obligation to provide transportation ends at the conclusion of the school year that the school from which the pupil transferred is no longer identified for improvement.

3. If a local school district operates a Section 105 and/or 105c program, the district has essentially indicated its desire to enroll nonresident pupils. Therefore, a district described here shall not refuse to sign a cooperative agreement to accept transfer pupils from a district with Title I schools that are identified for improvement.
  - If the receiving district is operating a 105 program but is not operating a 105c program, the receiving district may limit its cooperative agreements to districts located within the same intermediate district.
  - The receiving district may limit the number of nonresident pupils and/or grade levels of enrollment of nonresident pupils.
  - The order of preference for enrolling nonresident pupils will be: (1) pupils who were enrolled in the previous school year; (2) siblings and other household members of pupils who are enrolled; (3) pupils from Title I schools in need of improvement who are the lowest-achieving children from low-income families; (4) all other pupils from Title I schools in need of improvement; (5) all other pupils.
  - The receiving district would receive the lesser of the foundation allowance of the two districts.
  - The pupil has the right to remain in the nonresident district until the pupil withdraws from the district or graduates. However, the "sending" district's obligation to provide transportation ends at the conclusion of the school year that the school from which the pupil transferred is no longer identified for improvement.

**Questions & Answers Regarding Schools of Choice and Title I Transfer Option**

- Q.** How does one define the phrase, "to the extent practicable"?
- A.** The district that is required to seek the agreement must contact its neighboring districts and request a cooperative agreement. Neighboring districts that do not operate a Section 105 and/or 105c program are encouraged, but not required, to enter into such agreements. Neighboring districts that operate a Section 105 and/or 105c program are required to enter into an agreement if requested. Districts that have a preexisting cooperative agreement are required to accept pupils to the extent that the cooperative agreement would allow.
- Q.** May a district that has agreed to enroll nonresident pupils from a school in need of improvement place limitations on the number of pupils to be enrolled and on the grade levels in which pupils may be enrolled?
- A.** Yes, the enrolling district may place limitations on the number that may be enrolled and on the grade levels in which the pupils may be enrolled based on space available.
- Q.** May a district with buildings in need of improvement limit their attempts to get cooperative agreements for pupil transfers to districts that are geographically contiguous to the district?
- A.** Yes, because transportation for these pupils will be required, it would be considered "practicable" to limit the districts to those that are geographically contiguous.
- Q.** Would a district accepting transfer pupils from a building in need of improvement be required to accept pupils who have previously been suspended or expelled?
- A.** No, a district is not required to accept pupils who have previously been suspended or expelled.
- Q.** If a pupil who resides in the district with buildings in need of improvement is already attending another district under 105 or 105c choice or a preexisting cooperative agreement, can that pupil now have his or her transportation paid for under NCLB?
- A.** No, the pupil is not enrolled under the transfer option; therefore, it is not required that the resident district pay for transportation.
- Q.** Can a 105/105c choice district refuse to enroll pupils under the NCLB transfer option if the transfer would occur after the pupil membership count day?
- A.** Yes, the district can establish an enrollment period which may end prior to the pupil membership count day.
- Q.** If a district does not operate a 105/105c program and has not entered into a cooperative agreement, is the district required to enroll pupils who wish to transfer under the NCLB transfer option?
- A.** No, the requirement is only for those districts that agree to accept nonresident pupils.

- Q.** If a district does not operate a 105/105c program and has not entered into a cooperative agreement but has enrolled pupils from a building in need of improvement under a tuition policy, is the resident district required to provide transportation?
- A.** No, the district in need of improvement is only required to provide transportation to buildings in districts with which they have a cooperative agreement.